

TO THE PUBLIC AND RESIDENTS OF VERNAL CITY:

Notice is hereby given that the **VERNAL CITY PLANNING COMMISSION** will hold a regular meeting on **Tuesday, February 10, 2015 at 7:00 p.m.** in the Vernal City Council Chambers at 374 East Main Street, Vernal, Utah.

AGENDA

A. STANDING BUSINESS

1. Welcome and Designation of Chair and Members
2. Approval of Minutes of January 13, 2015 Regular Meeting **(TAB 1)**

B. SITE PLAN

1. Request for Approval of a Master Site Plan for the Department of Public Safety (Uintah Basin Driver License Division) for the Property Located at 920 East Highway 40, Vernal, Utah – Application No. 2015-001-MSP – Allen Parker **(TAB 2)**

C. PUBLIC HEARING – 7:15 P.M.

1. Request for Recommendation to Consider Amending the Vernal City General Plan & Future Land Use Map – Ordinance No. 2015-04 – Allen Parker **(TAB 3)**

D. ACTION ITEMS

1. Request for Recommendation to Consider Amending the Vernal City Municipal Planning & Zoning Code – Chapter 16.10 – Board of Adjustment – Ordinance No. 2015-05 – Allen Parker **(TAB 4)**

E. ADJOURN

MINUTES of the Vernal City PLANNING COMMISSION

Vernal City Council Chambers - 374 East Main Street, Vernal, Utah

January 13, 2015

7:00 pm

Members Present: Chair Mike Drechsel, Rory Taylor, Kathleen Gray, Ken Latham

Members Absent: Kimball Glazier, Samantha Scott

Alternates Present:

Alternates Absent: Adam Ray, Isaac Francisco, Kam Pope

Staff Present: Allen Parker, Assistant City Manager; Corey Coleman, Building Official; and Sherri Montgomery, Administrative Clerk.

WELCOME AND DESIGNATION OF CHAIR AND MEMBERS: Chair Mike Drechsel welcomed everyone present to the meeting.

ELECT 2015 CHAIR AND VICE-CHAIR: Chair Mike Drechsel opened up nominations for the 2015 Planning Commission Chair and Vice-Chair. *Kathleen Gray nominated Mike Drechsel as Chair and Samantha Scott as Vice-Chair. Rory Taylor moved to close nominations. Kathleen Gray seconded the motion. The motion passed with Mike Drechsel, Rory Taylor, Kathleen Gray, and Ken Latham voting in favor.*

APPROVAL OF MINUTES FROM NOVEMBER 18, 2014 REGULAR MEETING: Chair Mike Drechsel asked if there were any changes to the minutes from November 18, 2014. There being no corrections, *Kathleen Gray moved to approve the minutes of November 18, 2014 as presented. Rory Taylor seconded the motion. The motion passed with Mike Drechsel, Rory Taylor, Kathleen Gray, and Ken Latham voting in favor.*

APPROVAL OF MINUTES FROM DECEMBER 2, 2014 SPECIAL MEETING: Chair Mike Drechsel explained that there are not enough members in attendance who were in attendance of the December 2, 2014 meeting to vote. *The minutes of December 2, 2014 are deemed approved as per the Vernal City Municipal Code, Section 2.12.080.*

REQUEST FOR RECOMMENDATION OF A MINOR SUBDIVISION FOR VERONICA BIRD FOR THE PROPERTY LOCATED AT 577 SOUTH 400 WEST, VERNAL, UTAH – APPLICATION NO. 2014-036-SUB – ALLEN PARKER: Allen Parker explained that this application is basically a one acre parcel that the applicant wants to split into two half acre parcels. The property is located at 577 South 400 West in an R-1 residential zone. Mr. Parker stated that these are very traditional lots, and the dimensions meet all the requirements. Timberline Engineering and Vernal City staff have reviewed the application, and it is in compliance with Vernal City Code and is approvable for a positive recommendation. Chair Mike Drechsel opened the public hearing for the Veronica Bird minor subdivision. There being no comments, Mr. Drechsel closed the public hearing. *Rory Taylor moved to forward a positive*

47 *recommendation to the City Council for a minor subdivision for Veronica Bird for the*
48 *property located at 577 South 400 West, Vernal, Utah – Application No. 2014-036-SUB. Ken*
49 *Latham seconded the motion. The motion passed with Mike Drechsel, Rory Taylor, Kathleen*
50 *Gray, and Ken Latham voting in favor.*
51

52 **REQUEST FOR RECOMMENDATION OF A MINOR SUBDIVISION FOR DENNIS**
53 **MOTT FOR THE ORR SUBDIVISION LOCATED AT 1407 WEST HIGHWAY 40,**
54 **VERNAL, UTAH – APPLICATION NO. 2014-037-SUB – ALLEN PARKER:** Allen Parker
55 explained that this minor subdivision is in a commercial zone. There are no dimension or
56 frontage area requirements. The applicant, Dennis Mott, is requesting to split one parcel into
57 two. The small parcel is a memorial that currently resides there for Officer Orr who was killed
58 in 2006 in a helicopter crash on the Green River. The memorial was moved to Vernal City from
59 its location by the river due to consistent vandalism. Mr. Parker explained that the small part to
60 be split off would make it easier for the Orr family to maintain. This application has been
61 reviewed by Timberline Engineering and Vernal City staff and found to be in compliance with
62 Vernal City Code. Chair Mike Drechsel opened the public hearing for the Dennis Mott minor
63 subdivision. There being no comments, Mr. Drechsel closed the public hearing. *Kathleen Gray*
64 *moved to forward a positive recommendation to the City Council for a minor subdivision for*
65 *Dennis Mott for the property located at 1407 West Highway 40, Vernal, Utah – Application*
66 *No. 2014-037-SUB. Ken Latham seconded the motion. The motion passed with Mike*
67 *Drechsel, Rory Taylor, Kathleen Gray, and Ken Latham voting in favor.*
68

69 **REQUEST FOR RECOMMENDATION TO CONSIDER AMENDING THE VERNAL**
70 **CITY MUNICIPAL PLANNING AND ZONING CODE – SECTION 16.24.060 – FLAG**
71 **LOTS PERMITTED – ORDINANCE NO. 2015-01 – ALLEN PARKER:** Allen Parker
72 explained that this recommendation is more for clarification than anything. In the current Code,
73 flag lots in a subdivision allow the body and stem to be the same width. Mr. Parker stated that
74 the City Council asked that the Planning Commission review this ordinance to clarify that the
75 body or interior portion of the lots meets all the required dimensions to include width and area
76 for the zone in which it is located. Mr. Parker explained that the body and lot width is 70 feet in
77 most zones specified in the Code. Chair Mike Drechsel opened the public hearing for flag lots.
78 There being no comments, Mr. Drechsel closed the public hearing. Mr. Drechsel asked for
79 clarification on body dimensions to include width and area for the zone in which it is located,
80 specifically as it relates to the flag portion of the lot or including the stem. Mr. Parker explained
81 that it is the lot excluding the stem. Mr. Drechsel stated that it is not clear and asked if the body
82 of the flag lot typically includes the drive way. Ken Latham clarified the access strip. Mr.
83 Parker explained that it does not include the access strip. Mr. Parker agreed that this section of
84 the Code needs cleaned up, and right now are just putting a band aid on it. Rory Taylor stated
85 that he felt that the second sentence clarified that the access strip is not included. Corey
86 Coleman suggested that under section B, they change the “Uniform Fire Code” to read as
87 “International Fire Code”. Mr. Coleman added that it thought the International Fire Code stated
88 a fire hydrant will be located within 300 feet of the dwelling not 250, but will check on this. Mr.
89 *Rory Taylor moved to forward a positive recommendation to the City Council to amend the*
90 *Vernal City Municipal Planning and Zoning Code – Section 16.24.060 – Flag Lots Permitted*
91 *– Ordinance No. 2015-01 with the change from “Uniform Fire Code” to “International Fire*
2 *Code”, and changing the location of the fire hydrant from 250 feet to 300 feet after staff has*

93 *confirmed this is correct. Kathleen Gray seconded the motion. The motion passed with Mike*
94 *Drechsel, Rory Taylor, Kathleen Gray, and Ken Latham voting in favor.*
95

96 **REQUEST FOR RECOMMENDATION TO CONSIDER AMENDING THE VERNAL**
97 **CITY PLANNING COMMISSION BYLAWS – RESOLUTION NO. 2015-01 – ALLEN**

98 **PARKER:** Allen Parker explained that the City Council had a discussion regarding the
99 attendance requirement that is in place for regular members of the Planning Commission, but
100 noticed that there is no requirement for alternate members. The City Council has asked that the
101 Planning Commission consider having an attendance requirement for alternate members as well.
102 Mr. Parker stated that it is important to make sure there is a level of attendance and commitment,
103 regardless if you are an alternate or regular member of the Planning Commission. Mr. Parker
104 stated that the resolution changes the Bylaws to include alternate members to the attendance
105 policy of not more than two unexcused absences per year. Mr. Parker added that an unexcused
106 absence is when the member did not notify the staff in advance of the meeting that they would
107 not be in attendance. *Kathleen Gray moved to forward a positive recommendation to the City*
108 *Council to amend the Vernal City Planning Commission Bylaws with Resolution No. 2015-01.*
109 *Ken Latham seconded the motion. The motion passed with Mike Drechsel, Rory Taylor,*
110 *Kathleen Gray, and Ken Latham voting in favor.*
111

112 **REQUEST FOR RECOMMENDATION TO CONSIDER AMENDING THE VERNAL**
113 **CITY MUNICIPAL PLANNING & ZONING CODE – CHAPTER 16.10 – BOARD OF**
114 **ADJUSTMENT – ORDINANCE NO. 2014-31 – ALLEN PARKER:**

115 Allen Parker explained
116 that a couple of months ago, the Planning Commission reviewed this ordinance and
117 recommended some changes that have been added. Mr. Parker stated he would like to get this
118 ordinance completed with a final version to be voted on at the next meeting. Mr. Parker
119 mentioned that this topic was discussed on the radio, and Kristin Baldwin ran a story on it a few
120 days ago reporting that the City was considering making these changes. Mr. Parker explained
121 that the issue with the stay of decision was due to redundancy issues with State Code. Mr.
122 Parker stated that Section 16.10.030 (F) - Standards for Variances is a direct quote out of State
123 Code. Chair Mike Drechsel agreed that it should be pursuant to Utah law, so if the State statute
124 changes, the City does not need to change the Code again. Mr. Drechsel asked if in Section
125 16.10.020 (J) Policies and Procedures, if the Planning Director should be the one to adopt the
126 policies and procedures or would it be better to have the appeal policy run through the City
127 Council. Mr. Parker stated not the City Council, probably the Deputy Recorder's office. This
128 policy is for creating the process and forms for an appeal, and there is not a lot of room for
129 changing it. Mr. Drechsel suggested "administrative procedures" instead of "policies and
130 procedures" with the process spelled out with the obligations as it relates to appeals and hearings.
131 Mr. Parker suggested anywhere it says "policies and procedures" to change it to "administrative
132 procedures". Mr. Drechsel stated that the standard of review for district court is also already
133 addressed in State Code and voiced his concern with the City telling a judge what he/she can or
134 cannot do. Mr. Parker stated that he will make all the corrections and have a final draft in
135 ordinance form for the next meeting. *Rory Taylor moved to table amending the Vernal City*
136 *Municipal Planning and Zoning Code – Chapter 16.10 – Board of Adjustment – Ordinance*
137 *No. 2014-31. Kathleen Gray seconded the motion. The motion passed with Mike Drechsel,*
Rory Taylor, Kathleen Gray, and Ken Latham voting in favor.

139 **REQUEST FOR RECOMMENDATION TO CONSIDER AMENDING THE VERNAL**
140 **CITY MUNICIPAL PLANNING & ZONING CODE – CHAPTER 16.48 – C-2 AND CC-1**
141 **COMMERCIAL ZONES – ORDINANCE NO. 2014-34 – ALLEN PARKER:** Allen Parker
142 explained that this ordinance was previously reviewed with a public hearing by the Planning
143 Commission regarding animal boarding and care taker dwellings being added to definitions and
144 the use table. Mr. Parker stated that the Planning Commission needs to make a recommendation
145 to the City Council to move forward. *Rory Taylor moved to forward a positive*
146 *recommendation to the City Council to consider amending the Vernal City Municipal*
147 *Planning and Zoning Code – Chapter 16.48 – C-2 and CC-1 Commercial Zones – Ordinance*
148 *No. 2014-34. Ken Latham seconded the motion. The motion passed with Mike Drechsel, Rory*
149 *Taylor, Kathleen Gray, and Ken Latham voting in favor.*
150

151 **REQUEST FOR RECOMMENDATION TO CONSIDER AMENDING THE VERNAL**
152 **CITY MUNICIPAL PLANNING & ZONING CODE – CHAPTER 16.04 – DEFINITIONS**
153 **AND CHAPTER 16.44 – R-4 RESIDENTIAL ZONE – ORDINANCE NO. 2014-33 –**
154 **ALLEN PARKER:** Allen Parker explained that this ordinance was also previously reviewed by
155 the Planning Commission with a public hearing in conjunction with the above animal boarding
156 and care taker dwellings discussed earlier. This ordinance adds a section for minimum area
157 requirements and minimum width requirements, as well as amends the setback requirements.
158 Mr. Parker stated that a formal recommendation needs to be forwarded to the City Council.
159 Chair Mike Drechsel stated that the two previous items have been formatted in a better way and
160 have been separated out instead of presented together. *Kathleen Gray moved to forward a*
161 *positive recommendation to the City Council to consider amending the Vernal City Municipal*
162 *Planning and Zoning Code – Chapter 16.04 – Definitions and Chapter 16.44 – R-4 Residential*
163 *Zone – Ordinance No. 2014-33. Rory Taylor seconded the motion. The motion passed with*
164 *Mike Drechsel, Rory Taylor, Kathleen Gray, and Ken Latham voting in favor.*
165

166 **PLANNING COMMISSION VACANCY – ALLEN PARKER:** Allen Parker mentioned that
167 Scott Gessell with the Tri-County Health Department has shown interest in serving on the
168 Planning Commission, and the City Council will discuss this at their next meeting. Mr. Parker
169 confirmed that Kam Pope was approved as an alternate member of the Planning Commission by
170 the City Council at their last meeting.
171

172 **GENERAL PLAN:** Allen Parker explained that there will not be any more work sessions on
173 the General Plan and Future Land Use Map. The map is now ready to start addressing through
174 the public hearing process beginning next month. Mr. Parker stated that the map that the
175 Planning Commission created needs to be made into a good digital format. Chair Mike Drechsel
176 stated that it is important in conveying graphically what is being proposed by having a digital
177 photo rendering that reflects the changes at the public hearing next month.
178

179 **ADJOURN:** There being no further business, *Kathleen Gray moved to adjourn. Ken Latham*
180 *seconded the motion. The motion passed with a unanimous vote, and the meeting was*
181 *adjourned.*
182
183



VERNAL PLANNING COMMISSION STAFF REPORT

DATE: 6 February 2015

ITEM: **B1**

I. APPLICATION: 2015-001-MSP (Driver's License Division Building)
APPLICANT: State of Utah (Bush & Gudgell)
REQUEST: Master Site Plan FOR APPROVAL
LOCATION: 920 East Highway 40
ZONING: I-1
ACREAGE: 28.67 Acres

II. ANALYSIS:

The State of Utah Driver's License Division is presenting a master site plan for a new structure to be used for their operations in the area. Per Utah Code Section 10-9a-304 property owned by the State of Utah is exempt from Vernal City's jurisdiction and these documents are being provided to the Planning Commission as a courtesy. A review has been completed by CRS Engineers and some clarifications and corrections have been requested. These requested clarifications and corrections are currently being discussed and between all parties and a resolution is expected. Staff has reviewed the application, finding some needed corrections and the following:

1. The site plan is drawn to scale.
2. Parking meets the requirements of Vernal City Code.
3. Lighting is not shown.
4. There are some questions about the design of the water and sanitary sewer system.
5. Storm water retention requires some additional detail.
6. There is no fire hydrant within the proximity of the proposed development.
7. Landscaping is not required in the I-1 zone.

The applicant is currently working with all parties to address the various concerns.

III. STAFF RECOMMENDATIONS:

This application, as mentioned above, is exempt per state law from the jurisdiction of Vernal City and is provided as a courtesy. No Planning Commission action is required.

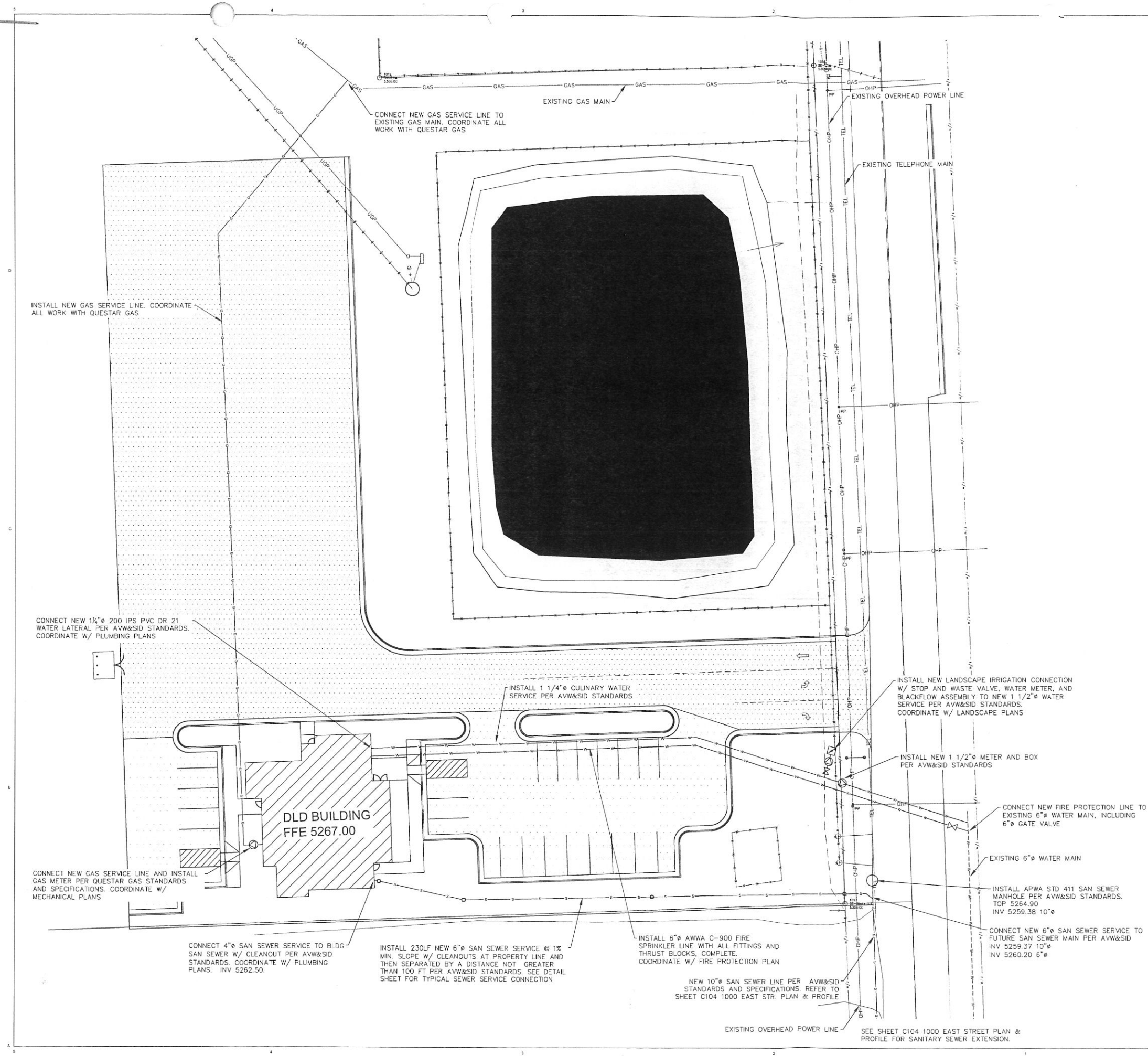
A handwritten signature in cursive script, appearing to read "Allen Parker".

Allen Parker
Assistant City Manager

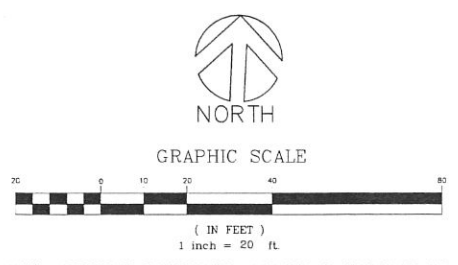
10-9a-304. State and federal property.

Unless otherwise provided by law, nothing contained in this chapter may be construed as giving a municipality jurisdiction over property owned by the state or the United States.

Renumbered and Amended by Chapter 254, 2005 General Session



2015-001-MSP
920 E. Highway 40



NOTE: TOPOGRAPHIC INFORMATION INCLUDED ON THIS PLAT WAS PROVIDED BY THE OWNER. BUSH AND GUDGELL ACCEPTS NO LIABILITY FOR TOPOGRAPHIC INFORMATION PROVIDED BY OTHERS.

GENERAL NOTES:

- CONTRACTOR SHALL CALL FOR BLUE STAKES, TELEPHONE 1-800-662-4111, A MINIMUM OF 48 HOURS BEFORE ANY EXCAVATION IS TO COMMENCE.
- NO CHANGE IN THE DESIGN OF UTILITIES AS SHOWN WILL BE MADE BY THE CONTRACTOR WITHOUT THE WRITTEN APPROVAL OF VERNAL CITY COMMUNITY DEVELOPMENT DEPARTMENT, OR OTHER AUTHORITY HAVING JURISDICTION OVER THAT UTILITY.
- THE VERNAL CITY STANDARDS FOR CONSTRUCTION IS HEREBY INCORPORATED AS PART OF THESE DOCUMENTS. ALL WORK WITHIN THE PUBLIC RIGHT OF WAY SHALL CONFORM TO THE REQUIREMENTS OF THE VERNAL CITY STANDARDS FOR CONSTRUCTION.
- CULINARY WATER FOR THE SITE IS PROVIDED BY ASHLEY VALLEY WATER & SEWER IMPROVEMENT DISTRICT. THE ASHLEY VALLEY WATER & SEWER IMPROVEMENT DISTRICT STANDARD NOTES ARE HEREBY INCORPORATED AS PART OF THESE DOCUMENTS AS THEY PERTAIN TO THE WATER SERVICE AND FIRE SERVICE TO THE BUILDING.
- SANITARY SEWER SERVICE FOR THE SITE IS PROVIDED BY ASHLEY VALLEY WATER & SEWER IMPROVEMENT DISTRICT. THE ASHLEY VALLEY WATER & SEWER IMPROVEMENT DISTRICT STANDARD NOTES ARE HEREBY INCORPORATED AS PART OF THESE DOCUMENTS AS THEY PERTAIN TO THE SANITARY SEWER SERVICE TO THE BUILDING.
- NATURAL GAS SERVICE FOR THE SITE IS PROVIDED BY QUESTAR GAS. ALL WORK RELATED TO BRINGING GAS SERVICE TO THE BUILDING SHALL BE COORDINATED WITH QUESTAR GAS AND ITS EASTERN REGION REPRESENTATIVE TERRI PITT (terri.pitt@questar.com).
- CONTRACTOR SHALL BE RESPONSIBLE FOR DUST CONTROL IN ACCORDANCE WITH THE NAPLES CITY STANDARDS. CONTRACTOR SHALL WET DOWN ALL DRY MATERIALS TO PREVENT BLOWING DUST AND REMOVE ALL RUBBISH TO PREVENT WIND SCATTERING.
- CONTRACTOR SHALL BE RESPONSIBLE FOR ANY DAMAGE CAUSED TO ADJACENT SURFACE IMPROVEMENTS DURING CONSTRUCTION. CONTRACTOR SHALL BE RESPONSIBLE FOR CORRECTING ANY SETTLEMENT OF OR DAMAGE TO EXISTING UTILITIES DURING CONSTRUCTION.
- ALL EXISTING ASPHALT TO BE CUT SHALL BE SAWCUT IN NEAT STRAIGHT LINES BY THE CONTRACTOR PRIOR TO EXCAVATION. ASPHALT PAVEMENT STRUCTURE WITHIN THE PUBLIC RIGHT OF WAY SHALL BE REPLACED WITH THE EQUIVALENT PAVEMENT STRUCTURE REMOVED, OR A MINIMUM OF 4 INCH ASPHALT SURFACE OVER 9 INCH UNTREATED BASE COURSE OVER A PREPARED SUBGRADE.
- REFER TO ELECTRICAL SITE PLAN FOR ELECTRICAL SERVICE CONNECTION.
- ALL STORM DRAIN CONDUITS AND BOXES SHALL BE CONSTRUCTED WITH WATERTIGHT JOINTS AND CONNECTIONS.

JRCA
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UTAH BASIN DRIVER LICENSE DIVISION
DEPARTMENT OF PUBLIC SAFETY
DCM PROJECT NO. 14033550
VERNAL, UTAH

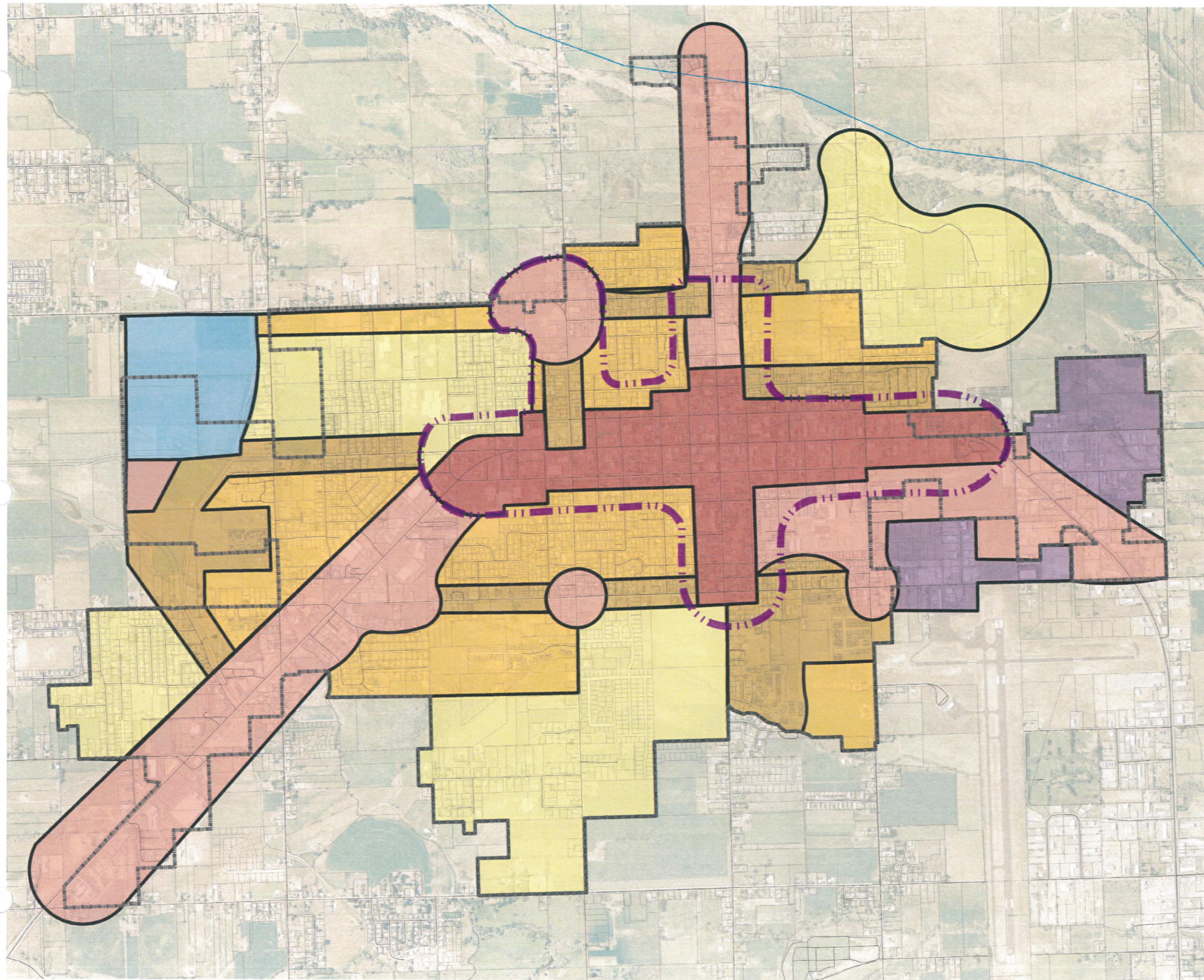
PROJECT #: 14005

DATE	REVISION
05-01-14	



UTILITY PLAN

C101



PROPOSED LAND USE

- Vernal City Limit
- Mixed Use Areas
- Low Density Residential
- Medium Density Residential
- High Density Residential
- Institutional
- Commercial
- Central Commercial
- Industrial

Vernal City Land Use Update

0 0.25 0.5 Miles

February 2015



ORDINANCE NO. 2015-05

AN ORDINANCE AMENDING THE VERNAL CITY MUNICIPAL CODE, CHAPTER 16.10 - APPEALS AND VARIANCES, ESTABLISHING A HEARING OFFICER AS THE APPEAL AUTHORITY FOR APPEALS RELATING TO LAND USE DECISIONS, SUBDIVISIONS, AND VARIANCES, AND SETTING FORTH PROCEDURES AND STANDARDS OF REVIEW, AND ESTABLISHING STANDARDS FOR GRANTING OF VARIANCES.

WHEREAS, Utah Code Ann. Section 10-9a-701 requires that municipalities establish an appeal authority for land use decisions; and,

WHEREAS, the Utah code authorizes cities to establish a hearing officer as the appeal authority relating to land use decisions and related matters; and,

WHEREAS, the Utah code authorizes cities to establish a standard of review; and,

WHEREAS, many of the matters dealing with land use appeals and granting of variances and related matters are technical and require a knowledge of land use law and procedures and due process; and,

WHEREAS, historically appeals to the previously established a board of adjustment have been very infrequent and maintaining a level of commitments and expertise among the lay volunteer members of the board of adjustment is difficult; and,

WHEREAS, a hearing officer can be required to have the requisite knowledge experience and skills to fairly consider the facts and apply the law to appeals relating to land use decisions

WHEREAS, the City Council has received input from the public at large in duly noticed open meetings, and has considered and discussed the advantages and disadvantages of such regulation.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF VERNAL CITY, UTAH AS FOLLOWS:

Section 1. Chapter 16.10 is hereby amended to read as follows

16.10 APPEALS AND VARIANCES.

Section 2. Section 16.10.010 is hereby amended to read as follows

16.10.010 Appeals and Variances Hearing Officer Established.

The Board of Adjustment shall consist of three (3) members and one (1) alternate, each to be appointed by the Mayor with the consent of the City Council for a term of five (5) years. No member of the Board of Adjustment / Appeal Authority shall also serve as a member of the City Council or the Planning Commission / Land Use Authority. Any member or alternate member may be removed for cause by the City Council upon written charges and after a public hearing, if such public hearing is requested. Vacancies shall be filled for the unexpired term of any member or alternate member whose term becomes vacant by the Mayor with consent of the City Council. The alternate member shall have no voting privileges except when a member be temporarily unable to act owing to the absence from the City, illness, interest in a case before the Board or any other cause, and when the alternate member is needed to create a full quorum of three (3) members.

A. Creation: The position of appeals and variances hearing officer is created pursuant to the enabling authority granted by the municipal land use, development, and management act, section 10-9a-701 of the Utah Code Annotated.

B. Jurisdiction and Authority: The Appeals and Variances Hearing Officer shall have the following powers and duties in connection with the implementation of this title:

1. Hear and decide appeals from any administrative decision made by the planning director in the administration or the enforcement of this title pursuant to the procedures and standards set forth in section 16.10.020, "Appeals Of Administrative Decisions", of this code;

2. Authorize variances from the terms of this title pursuant to the procedures and standards set forth in section 16.10.030, "Variances", of this code;

3. Hear and decide appeals from decisions made by the Planning Commission concerning subdivisions or subdivision amendments pursuant to the procedures and standards set forth in section 16.10.060, "Subdivisions And Condominiums", of this code; and,

4. Hear and decide appeals from administrative decisions made by the Planning Commission pursuant to the procedures and standards set forth in this code.

5. Hear and decide appeals from decisions of the planning director regarding reasonable accommodation of group homes including residential facilities for the elderly and residential treatment facilities.

6. Hear and decide appeals of final decisions made determining the status of nonconforming use or nonconforming structures.

7. Hear and decide appeals from final determinations of fees paid by the applicant for any land use application.

C. Qualifications: The Appeals and Variances Hearing Officer shall be appointed by the Mayor with the advice and consent of the City Council. The Appeals and Variances Hearing Officer shall be appointed for a term of two (2) years and thereafter may be appointed for succeeding two-year terms. The Appeals and Variances Hearing Officer shall either be law trained or have significant experience with land use laws and the requirements and operations of administrative hearing processes.

D. Conflict Of Interest: The Appeals and Variance Hearing Officer shall not participate in any appeal in which the appeals and variances hearing officer has a conflict of interest. If an appellant alleges that the Appeals and Variances Hearing Officer has a conflict of interest, and the Appeals and Variances Hearing Officer does not recuse himself/herself, the matter shall be brought before the City Council which will make the final decision concerning the existence of a conflict and what remedies are necessary to mitigate the conflict.

E. Removal Of The Appeals and Variances Hearing Officer: The Appeals and Variances Hearing Officer may be removed by the Mayor for violation of this title or any policies and procedures adopted by the planning director following receipt by the Mayor of a written complaint filed against the Appeals and Variances Hearing Officer. If requested by the Appeals and Variances Hearing Officer, the Mayor shall provide the Appeals and Variances Hearing Officer with a public hearing conducted by a different hearing officer appointed by the Mayor.

F. Employment Agreement: The Appeals and Variances Hearing Officer shall be an independent contractor; and will enter into a contract for services at the beginning of each appointed term. Terms for compensation and reimbursement will be determined and agreed upon in the contract. The terms and conditions of the contract shall be approved by the City Council. (PZSC § 03-04-001)(Ord. No. 95-03, Amended, 04/04/95)

Section 3. Section 16.10.020 is hereby amended to read as follows

16.10.020 Appeals of Administrative Decisions.

— The Board of Adjustment shall organize and elect a chairman and adopt rules in accordance with the provisions of this title. Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall comply with the requirements of Title 52, Chapter 4, "Open and Public Meetings," Utah Code Annotated, 1953. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions; all of which shall be immediately filed in the office of the Board and shall be a public record.

A. Authority. As described in Section C of this chapter, the Appeals and Variances Hearing Officer shall hear and decide appeals alleging an error in any administrative decision made by the planning director in the administration or enforcement of this title, as well as administrative decisions of the Planning Commission. In addition, the Appeals and Variances Hearing Officer shall hear and decide applications for variances.

B. Parties entitled to appeal: An applicant or any other person or entity within the jurisdiction of the Appeals and Variances Hearing Officer adversely affected by a decision administering or interpreting this title may appeal to the Appeals and Variances Hearing Officer.

C. Procedure: Appeals of administrative decisions made by the Planning Director, or Planning Commission to the Appeals and Variances Hearing Officer shall be taken in accordance with the following procedures:

1. Filing of appeal: An appeal shall be made in writing within fourteen (14) days of the administrative decision by the Planning Director or Planning Commission and shall be filed with the Planning Director. The appeal shall specify the decision appealed, the alleged error made in connection with the decision being appealed, and the reasons the appellant claims the decision to be in error, including every theory of relief that can be presented in district court.

2. Fees: Nonrefundable application and hearing fees shown on the Vernal City consolidated fee schedule shall accompany the appeal.

3. Stay Of Proceedings: An appeal to the Appeals and Variances Hearing Officer shall stay all further proceedings concerning the matter about which the appealed order.

requirement, decision, determination, or interpretation was made unless the planning director certifies in writing to the Appeals and Variance Hearing Officer, after the appeal has been filed, that a stay would, in the planning director's opinion, be against the best interest of the City.

4. Notice Required:

a. Public Hearing: All public hearings shall be conducted as meetings open to the attendance of the general public. Upon receipt by the planning director of an appeal of an administrative decision, the Appeals and Variances Hearing Officer shall be notified of the appeal and shall schedule and hold a public meeting in accordance with the standards and procedures adopted for such hearing.

b. Notice Of Appeals Of Administrative Decisions Of the Planning Commission: Appeals from a decision of the Planning Commission are based on evidence in the record. Therefore, testimony at the appeal meeting shall be limited to the appellant and the respondent. Upon receipt of an appeal of a decision by the Planning Commission, the appeals and variances hearing officer shall schedule a public meeting to hear arguments by the appellant and respondent. Notification of the date, time and place of the meeting shall be given to the appellant and respondent, by the hearing officer, a minimum of twelve (12) calendar days in advance of the meeting. The Appeal and Variances Hearing Officer may give e-mail notification, or other form of notification chosen by the Appeals and Variances Hearing Officer, a minimum of twelve (12) calendar days in advance of the hearing.

D. Standard of Review:

1. The standard of review for an appeal, other than as provided in subsection D2 of this section, shall be de novo. The appeals hearing officer shall review the matter appealed anew, based upon applicable procedures and standards for approval, and shall give no deference to the decision below.

2. An appeal from a decision of the Planning Commission shall be based on the record made below.

a. No new evidence shall be heard by the appeals and variances hearing officer unless such evidence was improperly excluded from consideration below.

b. The appeals and variances hearing officer shall review the decision based upon applicable standards and shall determine its correctness.

c. The appeals and variances hearing officer shall uphold the decision unless it is not supported by substantial evidence in the record or it violates a law, statute, or ordinance in effect when the decision was made.

E. Burden Of Proof: The appellant has the burden of proving the decision appealed is incorrect.

F. Action By The Appeals and Variances Hearing Officer: The appeals and variances hearing officer shall render a written decision on the appeal. Such decision may reverse or affirm, wholly or in part, or may modify the administrative decision. The appeals and variances hearing officer shall have fourteen (14) calendar days to render a decision. A decision by the appeals and variances hearing officer shall become effective on the date the written decision is signed.

G. Notification Of Decision: Notification of the decision of the appeals and variances hearing officer shall be sent by mail to all parties to the appeal within ten (10) days of the appeals and variances hearing officer's decision.

H. Record Of Proceedings: The proceedings of each appeal hearing shall be recorded on audio equipment. The audio recording of each appeal hearing shall be kept in accordance with the records retention requirements of the State of Utah. Copies of the tapes of such hearings may be provided, if requested, at the expense of the requesting party.

I. Appeals: Any person adversely affected by a final decision made by the appeals and variances hearing officer may file a petition for review of the decision with the district court within thirty (30) days after the decision is rendered.

J. Administrative Procedures: The planning director shall adopt administrative procedures, consistent with the provisions of this section, for processing appeals, the conduct of an appeal hearing, and for any other purpose considered necessary to properly consider an appeal.

K. Stay of decision: The Appeals and Variances Hearing Officer may stay the issuance of any permits or approvals on it decision for thirty (30) days or until the decision of the district court in any appeal of the decision in accordance with State statute under UCA 10-9a. (PZSC § 03-04-002)

Section 4. Section 16.10.030 is hereby amended to read as follows

16.10.030 Variances.

~~Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board or agency of the City affected by any land use decision applying the land use ordinance. Such appeal shall be taken within thirty (30) days after the alleged error in any order, requirement, decision or determination made by applying the land use ordinance in the enforcement of this title by filing with the Board of Adjustment a notice of appeal specifying the grounds thereof. The appeal shall be forthwith transmitted to the Board of Adjustment with all papers constituting the record upon which the action appealed from was taken.~~

A. The variance procedures are intended to provide a narrowly circumscribed means by which relief may be granted from unforeseen particular applications of this title that create unreasonable hardships. When such hardships may be more appropriately remedied, if at all, pursuant to other provisions of this title, the variance procedure is inappropriate.

B. Authority of appeals and variances hearing officer: The appeals and variances hearing officer may grant variances from the provisions of this title only in compliance with the procedures set forth in section D of this section and only in accordance with each of the standards enumerated in this chapter.

C. Parties entitled to seek variances: Applications for variances may be filed by an owner of the property affected or by the property owner's authorized agent. All applications for variances shall be filed on forms approved by the planning director.

D. Procedures:

1. Application: An application for a variance shall be filed with the planning director and shall include the following items and information unless determined inapplicable by the planning director:

a. The property owner's name and address and the owner's signed consent to the filing of the application;

b. The applicant's name and address, if different than the owner, and the applicant's interest in the subject property;

c. The names and addresses of all professional consultants, if any, advising

the applicant with respect to the application;

d. The address and legal description of the subject property;

e. County ownership plat numbers identifying the property; and

f. Noticing and posting requirements shall be met as specified in this title.

g. A site plan drawn to scale identifying all property lines, structures, including primary and accessory structures, fences, right-of-way, and their respective distances from the property lines;

h. An elevation drawing to scale showing all elevations of existing and proposed structures;

i. When the variance involves building height a streetscape plan showing the height of the buildings on both sides of the street to the nearest intersection;

j. When the variance involves grade changes, a topographical drawing prepared by a licensed surveyor shall be included. The existing topography shall be shown in dashed lines at two foot (2') intervals and the proposed grade shall be shown in solid lines at two foot (2') intervals. All retaining walls shall be identified and the height shall be shown on the plan relative to the proposed grades. Retaining walls shall be designed by a structural engineer licensed to practice in the State; and

k. When a variance request involves setbacks or height or grade changes a complete landscape plan shall be provided. Plans shall show landscape design and identify all species and caliper of proposed plants.

l. A color aerial plat map of the area, not less than 14" x 20" and showing the area of the requested variance and at least 500 feet on each side of the area.

m. The specific feature or features of the proposed use, construction or development that require a variance;

n. The specific provision of this title from which the variance is sought and the precise variance being sought;

o. A statement of the characteristics of the subject property that prevent compliance with the provisions of this title and result in unnecessary hardship;

p. A statement of the minimum variation of the provisions of this title that would be necessary to permit the proposed use, construction or development;

q. An explanation of how the application satisfies each standard set forth in this chapter;

r. Any other information identified by the planning director to be pertinent to the requested variance.

2. Fees: Non-refundable application and hearing fees shown on the Vernal City consolidated fee schedule shall accompany the application for a variance.

3. Hearing: Upon receipt of a complete application for a variance, the appeals hearing officer shall hold a hearing with notice in accordance with the requirements of this title.

4. Action By Appeals Hearing Officer: Upon the close of the hearing, the appeals and variances hearing officer shall render its decision, granting, granting with conditions, or denying the variance, unless the appeal and variances hearing officer determines that additional time to study the information presented is necessary and which case a written decision shall be promptly rendered and delivered to each of the parties by mail or email.

5. Special Procedures In Connection With Other Applications: Whenever a variance is needed in addition to a zoning amendment or a conditional use, the zoning administrator

shall not schedule a hearing on the variance until a final approval has been rendered on these other applications by the Planning Commission or the City Council, as applicable.

E. Prohibited variances. The appeals and variances hearing officer shall not grant a variance that:

1. Is intended as a temporary measure only; or
2. Is greater than the minimum variation necessary to relieve the unnecessary hardship demonstrated by the applicant; or
3. Authorizes uses not allowed by law (i.e. a "use variance").

F. Standards for variances: Standards shall be governed by State statute 10-9a.

G. Variances less than requested: A variance less than or different than that requested may be authorized when the record supports the applicant's right to some relief but not to the relief requested.

H. Conditions on variances: In authorizing a variance, the appeals and variances hearing officer may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest to mitigate any harmful effects of the variance or that will serve the purpose of the standard or requirement that is waived or modified. The appeals and variances hearing officer may require a guarantee or bond to ensure that the conditions imposed will be followed. These conditions shall be expressly set forth in the appeals and variances hearing officer's decision granting the variance. Violation of any condition or limitation on the grant of a variance shall be a violation of this title and shall constitute grounds for revocation of the variance.

I. Effect of granting variances: The granting of a variance shall not authorize the establishment or extension of any use, nor the development, construction, reconstruction, alteration or moving of any building or structure but shall merely authorize the preparation, filing and processing of applications for any permits and approval that may be required by the regulations of the City, including, but not limited to, a zoning certificate, a building permit, a certificate of occupancy, subdivision approval, and site plan approval.

J. Limitations on variances: Subject to an extension of time granted upon application to the planning director, no variance shall be valid for a period longer than one (1) year unless a building permit is issued or complete building plans have been submitted to the division of building services and licensing within that period. The planning director may grant an extension of a variance for up to one additional year when the applicant is able to demonstrate no change in circumstance that would result in an unmitigated impact. Extension requests must be submitted prior to the expiration of the variance.

K. Appeal of decision: Any person adversely affected by a final decision made by the appeals and variances hearing officer may file a petition for review of the decision with the district court within thirty (30) days after the decision is rendered.

L. Stay of decision: The appeals and variances hearing officer may stay the issuance of any permits or approval based on its decision for thirty (30) days or until the decision of the district court in any appeal of the decision in accordance with State statute 10-9a. (PZSC § 03-04-003)

Section 5. Section 16.10.040 is hereby amended to read as follows

16.10.040 Nonconforming use.

An appeal stays all proceedings in furtherance of the action appealed from, unless the

~~Building Official from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal has been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by restraining order which may be granted by the Board of Adjustment or by the district court on application and notice and on due cause shown.~~

~~Any person adversely affected by a final decision made by the planning director determining the status of a nonconforming use or noncomplying structure may appeal the decision to the appeals hearing officer in accordance with the provisions of this title. (PZSC § 03-04-004)~~

Section 6. Section 16.10.050 is hereby amended to read as follows

16.10.050 Group homes.

~~The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof by publication of notice in a newspaper of general circulation in the City at least five (5) days prior to the date of the hearing, as well as due notice to the parties in interest, and shall decide the same within a reasonable time. Upon hearing, any party may appear in person or by agent or by attorney.~~

~~Any person adversely affected by a final decision by the planning director determining the granting of accommodations or denial of accommodations requested by an applicant for a group home including residential facilities for the elderly and residential treatment facilities may appeal the decision to the appeals and variances hearing officer in accordance with the provisions of this title.~~

~~(PZSC § 03-04-005)~~

Section 7. Section 16.10.060 is hereby amended to read as follows

16.10.060 Subdivisions.

~~The Board of Adjustment shall have the following powers:~~

~~A. To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or determination made by the application of the land use ordinance;~~

~~;~~

~~B. To authorize upon application such variance from the terms of this title as will not be contrary to the public interest, where owing to exceptional narrowness, or shape of a specific piece of property at the time of the enactment of this title, or by reason of exceptional topographic conditions or other extraordinary and exceptional conditions of such property, a literal enforcement of the provisions of this title will result in unnecessary hardship; provided, that the spirit of this title shall be observed and substantial justice done and without substantially impairing the purpose and intent of this title and the master plan of the City. Before any variance may be authorized, however, it shall be shown that:~~

~~1. The variance will not substantially affect the general plan of the City and that adherence to the strict letter of this title will cause difficulties and hardships, the imposition of which upon the petitioner is unnecessary in order to carry out the general purpose of the plan;~~

~~2. Special circumstances attached to the property covered by the application do not generally apply to the other property in the same zone;~~

~~3. That because of the special circumstances, property covered by application is deprived of~~

privileges possessed by other properties in the same zone, and that the granting of the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;

C. To permit the enlargement of, addition to, or relocation of a building or structure, noncomplying as to use regulations, as follows:

1. For a nonconforming use located in a residential zone, the enlargement of, addition or relocation shall either:

a. Comply with all height, yard and area requirements for a single family dwelling in the zone in which the nonconforming building is located; or

b. The proposed enlargement, addition or relocation will either:

i. Improve the area by increasing the off street parking; or

ii. Improve the general appearance, convenience and safety of the area;

2. For a nonconforming use located in any area other than a residential zone, the enlargement, addition or relocation shall comply with all height, yard and area requirements for a main building, other than dwellings, in the zone in which it is located;

3. Before granting a permit for any enlargement, addition or relocation as provided herein, the Board shall find in public hearing that the proposed changes will not hinder or obstruct the attainment of the purpose of this title as stated in Section 16.02.020 any more than does the existing nonconforming use;

D. To permit the enlargement of, addition to, or relocation of a building or structure, noncomplying as to yard, height or area regulations, where undue hardship will result to the owner of the land involved unless granted and attainment of the purpose of this title as stated in Section 16.02.020 will not be hindered or obstructed, and provided the proposed enlargement, addition or relocation will either improve the area by increasing needed off street parking or improve the general appearance, convenience and safety of the area;

E. Where a zone boundary line divides a lot in single ownership at the time of the establishment of the boundary, the Board may permit a use authorized on either portion of such lot to extend to the entire lot, provided such permission shall not authorize the use to extend more than thirty five (350) feet beyond the zone boundary line or extend to an area greater than five thousand (5,000) square feet beyond the boundary line;

F. Permit a nonconforming use to be changed to another use allowed in the same or a more restrictive zone than the one (1) in which the nonconforming use would be allowed; provided, that the Board finds in public hearing that such change will not hinder or obstruct the attainment of the purpose of this title as stated in Section 16.02.020 any more than does the existing nonconforming use;

G. Permit the construction and use of a dwelling upon a lot which does not have frontage on a street, but which does have frontage on a dedicated right of way of at least sixteen (16) feet;

A. Appeal of administrative decision: Any person adversely and materially affected by any final decision made by the planning director or designee under the subdivision ordinance may file a petition for review of the decision with the planning commission within ten (10) days after the record of decision is announced.

B. Appeal of Planning Commission decision: Any person adversely affected by any final decision made by the planning commission under the subdivision ordinance, including a decision made by the planning commission on appeal from a decision of the planning director; may file a petition for review of the decision with the appeals and variances hearing officer within fourteen (14) days after the decision is rendered.

C. Appeals of appeals and variances officer and City Council decisions: Any person adversely affected by any final decision made by the appeals and variances hearing officer or the City Council under this title: SUBDIVISIONS, may file a petition for review of the decision with the district court within ten (10) days after the decision is rendered. (PZSC § 03-04-006)

Section 8. Section 16.10.070 is hereby amended to read as follows

16.10.070 Appeal of fees.

~~In exercising the previously mentioned powers such Board may, in conformity with the provisions of this title reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made.~~

A. Any person aggrieved by the fees charged or assessed for a land-use application may file a petition for review of the decision or assessment with the appeals and variances hearing officer in accordance with the provisions of this ordinance within five (5) business days after the fee is finally established. An application for a land use is not considered filed until the fee required for that application is paid. In the event a fee is appealed, the applicant may pay the disputed fee and proceed to have the application considered while the appeal is being processed with any subsequent increase in the fee determined after the appeal or decrease in the fee determined after the appeal to be adjusted and paid or refunded at the time of the decision of the appeals and variances hearing officer. (PZSC § 03-04-007)

Section 9. Section 16.10.080 is hereby amended to read as follows

16.10.080 Exhaustion of administrative remedies.

~~The concurring vote of two (2) members of the Board shall be necessary to reverse any order, requirement, decision or determination of any land use authority, or to decide in favor of the appellant on any matter upon which it is required to pass under this title, or to affect any variation in this title.~~

No person may challenge in district court the City's actions on any petition under this title until that person has exhausted all available administrative remedies.

(PZSC § 03-04-008)

Section 10. Section 16.10.090 is hereby amended to read as follows

16.10.090 Parties entitled to seek variances.

~~The City or any person aggrieved by a decision of the Board may have and maintain a plenary action for relief therefrom in any court of competent jurisdiction; provided, petition for such relief is presented to the court within thirty (30) days after filing of such decision in the office of the Board.~~

Ex Parte communication between the appeals and variance hearing officer and parties involved in an appeal pending before the hearing officer relating in any way to the subject of the appeal is prohibited.

(PZSC § 03-04-009)

Section 11. Section 16.10.100 is hereby repealed in its entirety

16.10.100 Variance procedure.

~~— A. Applications for variance shall be filed with the secretary of the Board of Adjustment. The application shall contain the following:~~

~~— 1. A description of the requested variance, together with a designation of that ordinance from which relief is being requested;~~

~~— 2. An accurate plot plan, if appropriate, indicating the manner in which the variance will be applied and its effect upon adjacent properties;~~

~~— 3. A list of property owners, together with current mailing addresses, of property owners within five hundred (500) feet of any property subject to the requested variance, as listed upon the latest assessment roll prepared by the Uintah County Assessor;~~

~~— 4. The filing fee.~~

~~— B. Upon receipt of the application by the secretary of the Board of Adjustment, a copy shall be submitted to the office of the City Recorder for filing, and a copy with all accompanying materials shall be forwarded to the Board of Adjustment for their action upon request. The Board shall hold a public hearing on the variance. At least fourteen (14) day's notice of the time and place of such hearing shall be published in a newspaper of general circulation in the City. Also, written notices shall be mailed to owner's of property within five hundred (500) feet of the proposed variance location. The notices shall state the time and place of the hearing of the variance.~~

~~— C. Decisions of the Board become effective at the meeting in which the decision is made, unless a different time is designated at the time the decision is made. In the event the Board does grant a variance in accordance with the provisions of this chapter, alterations in accordance with the variance must be commenced within six (6) months or if the petitioner shows adequate cause to the Board that circumstances warrant, a time extension may be granted.~~

~~—(PZSC § 03-04-010)~~

Section 12. Section 16.10.110 is hereby repealed in its entirety

16.10.110 Filing fee.

~~— Upon filing of any appeal or application to the Board of Adjustment the appellant or applicant shall pay to the City Clerk a fee prescribed by resolution of the City Council. The fee shall be collected by the City Clerk and deposited with the City Recorder and credited to the general fund. No appeal or application shall be considered by the Board unless and until such fee has been paid. (PZSC § 03-04-011)~~

SECTION A. REPEALER. All former ordinances or parts thereof conflicting or inconsistent with the provisions of this ordinance or of the code are hereby repealed.

SECTION B. SEVERABILITY. The provisions of this ordinance shall be severable and if any provision thereof or the application of such provision under any circumstances is held invalid and it shall not affect the validity of any other provision of this ordinance or the application in a different circumstance.

SECTION C. EFFECTIVE DATE. This ordinance shall take effect the day after publication

2015-05

the ___ day of upon adoption by the Vernal City Council and posting / publication as required by law.

Mayor Sonja Norton

ATTEST:

Kenneth L. Bassett, City Recorder

(S E A L)

Date of Publication: _____